

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

RASHEED HARGROVE,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Civil Action No. 04-2992 (PGS)

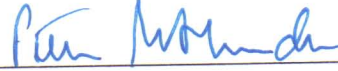
MEMORANDUM AND ORDER

This matter has been remanded to this Court by the Court of Appeals for the Third Circuit “for the sole purpose of either issuing a certificate of appealability or stating reasons why a certificate of appealability should not issue.”

This Court declines to issue a certificate of appealability. An appeal may not be taken from a final order in a proceeding under 28 U.S.C. § 2255, “[u]nless a circuit justice or judge issues a certificate of appealability.” 28 U.S.C. § 2253(c)(1)(B). Such certificate may issue only “if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). To establish a substantial showing, “[t]he petitioner must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Slack v. McDaniel*, 529 U.S. 473, 484, 120 S. Ct. 1595, 146 L. Ed. 2d 542 (2000). Here, Petitioner has failed in his § 2255 petition to make a substantial showing of a deprivation of a constitutional right and has further failed to establish that reasonable jurists would find Petitioner’s “constitutional claims debatable or wrong.” *Id.*

Therefore, IT IS on this 9th day of September, 2010;

ORDERED that a certificate of appealability should be denied pursuant to 28 U.S.C. § 2253(c)(2).



HON. PETER G. SHERIDAN, U.S.D.J.

September 9, 2010